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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 United States of America,

10 Plaintiff,

11 v.

12 Michael Joseph Salcido,

13 Defendant.  
14

No. CR-23-00197-001-TUC-AMM (JR)

**ORDER**

15 On June 3, 2025, Magistrate Judge Jaqueline M. Rateau issued a Report and  
16 Recommendation (“R&R”) recommending this Court deny Defendant Michael Joseph  
17 Salcido’s Motion to Dismiss Indictment. (Doc. 60.) On June 9, 2025, Defendant filed  
18 written objections. (Doc. 61.) The Government responded on June 13, 2025. (Doc. 64.)

19 **I. Standard of Review**

20 A district court must “make a de novo determination of those portions” of a  
21 magistrate judge’s “report or specified proposed findings or recommendations to which  
22 objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Crim. P. 59(b)(3) (“The  
23 district judge must consider de novo any objection to the magistrate judge’s  
24 recommendation”).

25 **II. Report and Recommendation**

26 The Magistrate Judge recommended the Court deny the Motion to Dismiss  
27 Indictment in light of the Ninth Circuit’s en banc decision in *United States v. Duarte*, No.  
28 22-50048, 2025 WL 1352411 (9th Cir. 2025) (en banc) (holding that 18 U.S.C. §

1 922(g)(1) is constitutional as applied to non-violent felons). (Doc. 60 at 3.)

2 Defendant objects to the Magistrate Judge's recommendation because he  
 3 nonetheless argues that 18 U.S.C. § 922(g)(1) is unconstitutional as applied to an  
 4 individual like Defendant who has completed his criminal sentence for his prior felonies.  
 5 (Doc. 61 at 4–5.) He cites the Supreme Court decision in *United States v. Rahimi*, 602  
 6 U.S. 680 (2024). (*Id.* at 5.) In *Rahimi*, the Supreme Court upheld the constitutionality of  
 7 18 U.S.C. § 922(g)(8), which prohibits individuals subject to domestic violence  
 8 restraining orders from possessing firearms. 602 U.S. at 702. Defendant argues that the  
 9 Supreme Court emphasized that § 922(g)(8)'s ban on firearms was not permanent, and,  
 10 therefore, "it leaves open the possibility that the Supreme Court will ultimately hold that  
 11 [18 U.S.C. § 922(g)(1)'s] *permanent* ban on firearm possession is unconstitutional, at  
 12 least as applied to people like Mr. Salcido." (*Id.*) Defendant states, "[r]ecognizing that  
 13 this Court is bound by the *Duarte* en banc ruling, Mr. Salcido nevertheless files this  
 14 objection . . . in order to preserve this issue for appeal should it become ripe in the  
 15 future." (*Id.* at 6.)

### 16 **III. Discussion**

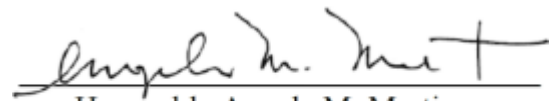
17 The Court has reviewed the Magistrate Judge's R&R, the parties' briefs, the  
 18 record, Defendant's Objections, and the Government's response. The Court finds that it is  
 19 bound by the en banc decision in *Duarte* that § 922(g)(1) is constitutional. Therefore, it  
 20 will adopt the recommendation and deny Defendant's Motion to Dismiss Indictment.

21 Accordingly,

22 **IT IS ORDERED** that the Report and Recommendation is **ADOPTED**. (Doc.  
 23 60.)

24 **IT IS FURTHER ORDERED** that Defendant's Motion to Dismiss Indictment is  
 25 **DENIED**. (Doc. 29.)

26 Dated this 18th day of June, 2025.

27   
 28 Honorable Angela M. Martinez  
 United States District Judge